

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

ROMALA STONE, INC.,	)	
	)	
Plaintiff,	)	CIVIL ACTION
	)	
v.	)	No. 1:04-CV-02307-RWS
	)	
HOME DEPOT U.S.A., INC.,	)	
	)	
Defendant.	)	

[PROPOSED] FINAL JUDGMENT

Plaintiff and Counterclaim-Defendant Romala Stone, Inc. (“Romala”) and Defendant and Counterclaim-Plaintiff Home Depot U.S.A., Inc. (“Home Depot”), by and through their undersigned counsel, and, in accordance with Rule 54(b), hereby stipulate and agree, subject to the approval of the Court, as follows:

1. On October 8, 2004, Romala filed its Amended And Restated Complaint (the “Amended Complaint”) in this action alleging counts for infringement of U.S. Patent No. 6,594,973 B1 (“the ‘973 Patent”) (Count I); unfair competition, and deceptive trade practices (Count II); common law unfair competition (Count III); breach of contract, alleging breach of the Exclusive Sales Agreement (“ESA”) dated March 29, 2000 (Count IV); trade secret

misappropriation (Count V); and for attorneys' fees pursuant to O.C.G.A. § 13-6-11 (Count VI). (See, generally, Am. Compl. [Dkt. No. 38]).

2. On April 27, 2005, the Court issued an order granting Home Depot's motion to dismiss and issued an Order dismissing Counts II, III, and V of the Amended Complaint. (Dkt. No. 56).

3. On May 12, 2005, Home Depot answered Counts I, IV, and VI of the Amended Complaint and filed a Counterclaim seeking a declaratory judgment of noninfringement, invalidity, and unenforceability of the '973 Patent. (See, generally, Answer [Dkt. No. 66]).

4. On September 28, 2007, the Court issued an order granting Home Depot's Motion For Partial Summary Judgment Of Invalidity For Indefiniteness Under 35 U.S.C. § 112 ¶ 2. (Dkt. No. 160).

5. On May 7, 2008, Home Depot filed a Motion For Summary Judgment on the remaining breach of contract claim and, in the alternative, partial summary judgment limiting Romala's damages on that claim. (Dkt. No. 221).

6. On May 9, 2008, Romala filed a Motion For Summary Judgment on the remaining breach of contract claim. (Dkt. No. 224; Dkt. No. 255 at 5).

7. On March 30, 2009, the Court issued an order granting, in part, and denying, in part, Home Depot's motion for summary judgment, and denying

Romala's motion for summary judgment, on the breach of contract claim. (Dkt. No. 255).

8. Romala and Home Depot stipulate and agree that, pursuant to the Court's determination in its March 30, 2009 Order, any issues remaining for trial thereby, are resolved in favor of Home Depot.

9. The Court's orders dated April 27, 2005; June 14, 2006; September 28, 2007; and March 30, 2009 are incorporated by reference as though fully set forth verbatim herein and made a part hereof.

10. Romala retains the right to appeal from the Judgment to the Federal Circuit Court of Appeals and/or any other applicable court of appeals and, as part of said appeal, to attack the propriety of and appeal from not only this Judgment but also the Court's orders dated April 27, 2005; June 14, 2006; September 28, 2007; and March 30, 2009, and any and all orders, rulings, and decisions in the above encaptioned action.

11. Accordingly, the parties agree that Judgment shall be entered in favor of Home Depot on all claims set forth in the Amended Complaint and in favor of Home Depot on its Counterclaim.

12. All parties shall bear their own costs of suit, including but not limited to attorney's fees, expert witness fees, witness fees, and court and litigation costs.

SO ORDERED, this \_\_\_\_ day of \_\_\_\_\_, 2009.

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RICHARD W. STORY  
United States District Judge

Stipulated to:

ARNALL GOLDEN GREGORY

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